

Assembly Bill No. 2484

CHAPTER 196

An act to amend Sections 56021, 56654, 56824.10, 56824.12, 56824.14, 57075, and 57076 of the Government Code, relating to local government.

[Approved by Governor July 22, 2008. Filed with
Secretary of State July 22, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2484, Caballero. Local government: special districts.

(1) Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 defines "change of organization" to mean, among other things, a district formation, a consolidation of cities or special districts, or a merger or establishment of a subsidiary district.

This bill would include within the definition of "change of organization" a proposal for the exercise of new or different functions or classes of services, or the divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district.

(2) Existing law authorizes a proposal for a change of organization or a reorganization to be made by the adoption of a resolution of application by the legislative body of an affected local agency.

This bill would require a change of organization proposal that involves the exercise of new or different functions or classes of services, or the divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district to be initiated only by the legislative body of that special district.

(3) Existing law requires, in addition to the proposal for a change of organization or reorganization, that the legislative body of a special district submit a plan for services, including, among other things, a plan for financing the establishment of the new or different function or class of services within the special district's jurisdictional boundaries.

This bill would also require the legislative body of a special district to include in the plan a written summary of whether the new or different function or class of services, or divestiture of the power to provide particular functions or classes of services within all or part of the jurisdictional boundaries of a special district, will involve the activation or divestiture of the power to provide a particular service or services, service function or functions, or class of service or services.

(4) Existing law requires a local agency formation commission to review and approve or disapprove proposals for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district, as specified.

This bill would also require the commission to review and approve or disapprove proposals for the divestiture of the power to provide particular functions or class of services, within all or part of the jurisdictional boundaries of a special district, and would prohibit the approval of proposals where the commission has determined that the special district will not have sufficient revenues to carry out the proposed new or different functions or class of services, except as specified.

(5) Existing law requires a local agency formation commission to take specified actions with regard to written protests against a proposal for a change of organization or reorganization that consists solely of annexations, detachments, or formation of a county services area in the case of registered voter districts or cities, and where the proposal for a change of organization consists solely of annexations or detachments in the case of landowner-voter districts, as specified.

This bill would require the commission to take the same actions with regard to written protests against a proposal for the exercise of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, within all or part of the jurisdictional boundaries of a special district, in both a registered voter district or city, or a landowner-voter district.

(6) This bill would incorporate additional changes in Section 56654 of the Government Code, proposed by AB 3047, to be operative only if AB 3047 and this bill are both chaptered and become effective January 1, 2009, and this bill is chaptered last.

(7) This bill would incorporate additional changes in Section 57075 of the Government Code, proposed by SB 1458, to be operative only if SB 1458 and this bill are both chaptered and become effective January 1, 2009, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 56021 of the Government Code is amended to read:

56021. "Change of organization" means any of the following:

- (a) A city incorporation.
- (b) A district formation.
- (c) An annexation to, or detachment from, a city or district.
- (d) A disincorporation of a city.
- (e) A district dissolution.
- (f) A consolidation of cities or special districts.
- (g) A merger or establishment of a subsidiary district.
- (h) A proposal for the exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district.

SEC. 2. Section 56654 of the Government Code is amended to read:

56654. (a) A proposal for a change of organization or a reorganization may be made by the adoption of a resolution of application by the legislative body of an affected local agency, except as provided in subdivision (b).

(b) Notwithstanding Section 56700, a proposal for a change of organization that involves the exercise of new or different functions or classes of services, or the divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, shall only be initiated by the legislative body of that special district in accordance with Sections 56824.10, 56824.12, and 56824.14.

(c) At least 20 days before the adoption of the resolution, the legislative body may give mailed notice of its intention to adopt a resolution of application to the commission and to each interested agency and each subject agency. The notice shall generally describe the proposal and the affected territory.

(d) Except for the provisions regarding signers and signatures, a resolution of application shall contain all of the matters specified for a petition in Section 56700 and shall be submitted with a plan for services prepared pursuant to Section 56653.

SEC. 2.5. Section 56654 of the Government Code is amended to read:

56654. (a) A proposal for a change of organization or a reorganization may be made by the adoption of a resolution of application by the legislative body of an affected local agency, except as provided in subdivision (b).

(b) Notwithstanding Section 56700, a proposal for a change of organization that involves the exercise of new or different functions or classes of services, or the divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, shall only be initiated by the legislative body of that special district in accordance with Sections 56824.10, 56824.12, and 56824.14.

(c) At least 21 days before the adoption of the resolution, the legislative body may give mailed notice of its intention to adopt a resolution of application to the commission and to each interested agency and each subject agency. The notice shall generally describe the proposal and the affected territory.

(d) Except for the provisions regarding signers and signatures, a resolution of application shall contain all of the matters specified for a petition in Section 56700 and shall be submitted with a plan for services prepared pursuant to Section 56653.

SEC. 3. Section 56824.10 of the Government Code is amended to read:

56824.10. Commission proceedings for the exercise of new or different functions or classes of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, may be initiated by a resolution of application in accordance with this article.

SEC. 4. Section 56824.12 of the Government Code is amended to read:

56824.12. (a) A proposal by a special district to provide a new or different function or class of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, shall be made by the adoption of a resolution of application by the legislative body of the special district and shall include all of the matters specified for a petition in Section 56700, except paragraph (6) of subdivision (a) of Section 56700, and be submitted with a plan for services prepared pursuant to Section 56653. The plan for services for purposes of this article shall also include all of the following information:

(1) The total estimated cost to provide the new or different function or class of services within the special district's jurisdictional boundaries.

(2) The estimated cost of the new or different function or class of services to customers within the special district's jurisdictional boundaries. The estimated costs may be identified by customer class.

(3) An identification of existing providers, if any, of the new or different function or class of services proposed to be provided and the potential fiscal impact to the customers of those existing providers.

(4) A written summary of whether the new or different function or class of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, will involve the activation or divestiture of the power to provide a particular service or services, service function or functions, or class of service or services.

(5) A plan for financing the establishment of the new or different function or class of services within the special district's jurisdictional boundaries.

(6) Alternatives for the establishment of the new or different functions or class of services within the special district's jurisdictional boundaries.

(b) The clerk of the legislative body adopting a resolution of application shall file a certified copy of that resolution with the executive officer. Except as provided in subdivision (c), the commission shall process resolutions of application adopted pursuant to this article in accordance with Section 56824.14.

(c) (1) Prior to submitting a resolution of application pursuant to this article to the commission, the legislative body of the special district shall conduct a public hearing on the resolution. Notice of the hearing shall be published pursuant to Sections 56153 and 56154.

(2) Any affected local agency, affected county, or any interested person who wishes to appear at the hearing shall be given an opportunity to provide oral or written testimony on the resolution.

SEC. 5. Section 56824.14 of the Government Code is amended to read:

56824.14. (a) The commission shall review and approve or disapprove with or without amendments, wholly, partially, or conditionally, proposals for the establishment of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, within all or part of the jurisdictional boundaries of a special district, after a public hearing called and held for that purpose. The

commission shall not approve a proposal for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district unless the commission determines that the special district will have sufficient revenues to carry out the proposed new or different functions or class of services except as specified in paragraph (1).

(1) The commission may approve a proposal for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district where the commission has determined that the special district will not have sufficient revenue to provide the proposed new or different functions or class of services, if the commission conditions its approval on the concurrent approval of sufficient revenue sources pursuant to Section 56886. In approving a proposal, the commission shall provide that if the revenue sources pursuant to Section 56886 are not approved, the authority of the special district to provide new or different functions or class of services shall not be established.

(2) Unless otherwise required by the principal act of the subject special district, or unless otherwise required by Section 57075 or 57076, the approval by the commission for establishment of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, shall not be subject to an election.

(b) At least 21 days prior to the date of that hearing, the executive officer shall give mailed notice of the hearing to each affected local agency or affected county, and to any interested party who has filed a written request for notice with the executive officer. In addition, at least 21 days prior to the date of that hearing, the executive officer shall cause notice of the hearing to be published in accordance with Section 56153 in a newspaper of general circulation that is circulated within the territory affected by the proposal proposed to be adopted.

(c) The commission may continue from time to time any hearing called pursuant to this section. The commission shall hear and consider oral or written testimony presented by any affected local agency, affected county, or any interested person who appears at any hearing called and held pursuant to this section.

SEC. 6. Section 57075 of the Government Code is amended to read:

57075. In the case of registered voter districts or cities, where a change of organization or reorganization consists solely of annexations, detachments, the exercise of new or different functions or class of services or the divestiture of the power to provide particular functions or class of services within all or part of the jurisdictional boundaries of a special district, or formation of county service areas, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002:

(a) In the case of inhabited territory, take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization subject to confirmation by the registered voters residing within the affected territory if written protests have been filed and not withdrawn by either of the following:

(A) At least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory.

(B) At least 25 percent of the number of owners of land who also own at least 25 percent of the assessed value of land within the affected territory.

(3) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters or less than 25 percent of the number of owners of land owning less than 25 percent of the assessed value of land within the affected territory.

(b) In the case of uninhabited territory, take either of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

SEC. 6.5. Section 57075 of the Government Code is amended to read:

57075. In the case of registered voter districts or cities, where a change of organization or reorganization consists solely of annexations, detachments, the exercise of new or different functions or class of services or the divestiture of the power to provide particular functions or class of services within all or part of the jurisdictional boundaries of a special district, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002:

(a) In the case of inhabited territory, take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization subject to confirmation by the registered voters residing within the affected territory if written protests have been filed and not withdrawn by either of the following:

(A) At least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory.

(B) At least 25 percent of the number of owners of land who also own at least 25 percent of the assessed value of land within the affected territory.

(3) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters or less than 25 percent of the number of owners of land owning less than 25 percent of the assessed value of land within the affected territory.

(b) In the case of uninhabited territory, take either of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

SEC. 7. Section 57076 of the Government Code is amended to read:

57076. In the case of landowner-voter districts, where a change of organization or reorganization consists solely of annexations or detachments, the exercise of new or different functions or class of services or the divestiture of the power to provide particular functions or class of services within all or part of the jurisdictional boundaries of a special district, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002:

(a) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(b) Order the change of organization or reorganization subject to an election within the affected territory if written protests that have been filed and not withdrawn represent either of the following:

(1) Twenty-five percent or more of the number of owners of land who also own 25 percent or more of the assessed value of land within the territory.

(2) Twenty-five percent or more of the voting power of landowner voters entitled to vote as a result of owning property within the territory.

(c) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the number of owners of land who own less than 25 percent of the assessed value of land within the affected territory.

SEC. 8. Section 2.5 of this bill incorporates amendments to Section 56654 of the Government Code proposed by both this bill and AB 3047. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 56654 of the Government Code, and (3) this bill is enacted after AB 3047, in which case Section 2 of this bill shall not become operative.

SEC. 9. Section 6.5 of this bill incorporates amendments to Section 57075 of the Government Code proposed by both this bill and SB 1458. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 57075 of the Government Code, and (3) this bill is enacted after SB 1458, in which case Section 6 of this bill shall not become operative.